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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,852	11/25/2003	Benjamin Edward Russ	81661/7114	8658
37123	7590	07/28/2004	EXAMINER	
FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE SUITE 1600 CHICAGO, IL 60603			PERRY, ANTHONY T	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,852

Applicant(s)

RUSS ET AL.

Examiner

Anthony T Perry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 12, 22-25, 27, 28 and 30-35 is/are rejected.
- 7) ☐ Claim(s) 7-10, 13-21, 26, 29 and 36-38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/24/04, 6/25/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6, 22-25, 27-28, and 30-35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,559,602. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons.

U.S. Application SN 10/722,852	U.S. Patent No. 6,559,602	Reasons for rejection under obviousness-type double patenting
Claims 1 and 22	Claim 1	Patent '602 claims a device for electric field control in a field emission display comprising a cathode substrate; a plurality of emitter lines formed on the cathode substrate; and a plurality of gate wires crossing over the plurality of emitter lines, each gate wire having a cross section shaped to produce an electric field between adjacent gate wires that is substantially uniform and substantially flat across a portion of an emitter line in between the adjacent gate wires, the electric field causing an electron emission from the portion of the emitter line.
Claim 2 and 27	Claim 2	Patent '602 claims the display wherein the cross section of each gate wire is shaped to produce the electric field which causes the electron emission that is substantially straight from the portion of the emitter line.

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Claim 3 and 28	Claim 3	Patent '602 claims the display wherein the cross section of each gate wire is shaped to focus the electron emission from the portion of the emitter line.
Claims 4-6 and 23-25	Claim 4	Patent '602 claims the display wherein the cross section of each gate wire is shaped to have a geometry with at least a portion of an upper left section and an upper right section of the geometry removed. The at least the portion comprises a notch removed from the upper left section and the upper right section. The cross section is shaped in a generally rectangular geometry.
Claim 30	Claim 1	Patent '602 claims a gate device for use in a field emission display comprising: a wire adapted to cross over emitter lines of a cathode substrate; the wire having a length adapted to extend across at least a portion of the cathode substrate; the wire having a cross section adapted to produce an electric field between the wire and an adjacent wire that is substantially uniform and substantially flat across a portion of an emitter line. The electric field is inherently formed by applying a voltage potential between the wire and the adjacent wire and the emitter line.
Claim 31	Claim 2	Patent '602 claims the device wherein the cross section is adapted to produce the electric field which causes an electron emission that is substantially straight from the portion of the emitter line.
Claim 32	Claim 3	Patent '602 claims the device wherein the cross section is adapted to focus an electron emission from the portion of the emitter line.
Claims 33-35	Claim 4	Patent '602 claims the device wherein the cross section is shaped to have a geometry with at least a portion of an upper left section and an upper right section of the geometry removed. The at least portion comprises a notch removed from the upper left section and the upper right section. The cross section is shaped in a generally rectangular geometry.

Claims 11-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 17 of U.S. Patent No.

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6,756,730. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons.

U.S. Application SN 10/722,852	U.S. Patent No. 6,756,730	Reasons for rejection under obviousness-type double patenting
Claims 11	Claim 1	Patent '730 claims a field emission display comprising: a cathode substrate including a plurality of emitter lines formed on the cathode substrate; a plurality of gate wires positioned over the cathode substrate; and an anode plate including a plurality of phosphor lines positioned over the plurality of gate wires, the plurality of phosphor lines aligned with the plurality of emitter lines.
Claim 12	Claim 17	Patent '730 claims the display wherein each gate wire has a cross section shaped to produce an electric field between adjacent gate wires that is substantially uniform and substantially flat across a portion of an emitter line in between the adjacent gate wires, the electric field causing an electron emission from the portion of the emitter line.

Allowable Subject Matter

Claims 7-10, 13-21, 26, 29, 36-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Anthony Perry* whose telephone number is (571) 272-2459. The examiner can normally be reached between the hours of 9:00AM to 5:30PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel, can be reached on (571) 272-2459. The fax phone number for this Group is (703) 872-9306.

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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [Anthony.perry@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Anthony Perry
Patent Examiner
Art Unit 2879
July 26, 2004



Vip Patel
Primary Examiner
Art Unit 2879